

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

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ANTHONY STEELE,

*Pro se Plaintiff,*  
- against -

DET. EVAN SMELLEY and A.D.A. RUPERT V.  
BARRY,

**ORDER ADOPTING REPORT  
AND RECOMMENDATION**

10-CV-01990 (KAM) (LB)

Defendants.

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**MATSUMOTO, United States District Judge:**

On April 16, 2010, Anthony Steele ("plaintiff") commenced this *pro se* action against the City of New York, Detective Evan Smelley ("Detective Smelley"), and Assistant District Attorney Rupert V. Barry ("ADA Barry") asserting claims for false arrest and malicious prosecution pursuant to 42 U.S.C. § 1983 ("Section 1983"). (See ECF No. 1, Complaint.) On May 10, 2010, the court dismissed the Complaint as to defendant City of New York for failure to state a claim pursuant to 28 U.S.C. § 1915A(b)(1). (See ECF No. 4, Memorandum and Order.)

On April 14, 2011, the remaining defendants, Detective Smelley and ADA Barry (collectively, "defendants"), moved for summary judgment on all claims against them pursuant to Federal Rule of Civil Procedure 56. (See ECF No. 33, Motion for Summary Judgment.) Presently before the court is a Report and Recommendation issued by Magistrate Judge Lois Bloom on February 23, 2012, recommending that this court grant defendants' motion

for summary judgment on plaintiff's Section 1983 claims and decline to exercise supplemental jurisdiction over plaintiff's state law claims to the extent any such claims are alleged in the Complaint. (ECF No. 42, Report and Recommendation.)

On February 23, 2012, a copy of the Report and Recommendation was sent to the *pro se* plaintiff along with copies of all unreported cases cited therein. (See Docket Entry dated February 23, 2012.) Notice of the Report and Recommendation was also given to the defendants on February 23, 2012 via the court's electronic filing system. As explicitly noted at the end of the Report and Recommendation and on the docket entry for the Report and Recommendation, any written objections to the Report and Recommendation were to be filed within fourteen (14) days of service of the Report and Recommendation, or by March 12, 2012. (Report and Recommendation at 15; Docket Entry dated February 23, 2012); see 28 U.S.C. § 636(b) (1); Fed. R. Civ. P. 72(b). The Report and Recommendation also provided clear notice that the failure to file a timely objection "generally waives any further judicial review." (Report and Recommendation at 15.) The statutory period for filing objections has expired, and no objections to Magistrate Judge Bloom's Report and Recommendation have been filed.

In reviewing a Report and Recommendation, the district court "may accept, reject, or modify, in whole or in part, the

findings or recommendations made by the magistrate judge." 28 U.S.C. § 636(b)(1)(C). Where no objection to the Report and Recommendation has been filed, the district court "need only satisfy itself that that there is no clear error on the face of the record." *Urena v. New York*, 160 F. Supp. 2d 606, 609-10 (S.D.N.Y. 2001) (quoting *Nelson v. Smith*, 618 F. Supp. 1186, 1189 (S.D.N.Y. 1985)).

Upon a review of the Report and Recommendation, and considering that the parties have failed to object to any of Magistrate Judge Bloom's thorough and well-reasoned recommendations, the court finds no clear error in the Report and Recommendation and hereby affirms and adopts the Report and Recommendation as the opinion of the court.

Accordingly, for the reasons set forth in Magistrate Judge Bloom's Report and Recommendation, the court (1) grants defendants' motion for summary judgment on plaintiff's Section 1983 claims for false arrest and malicious prosecution, and (2) declines to exercise supplemental jurisdiction over plaintiff's state law claims pursuant to 28 U.S.C. § 1337(c)(3) to the extent any such claims are alleged in the Complaint. Any such state law claims are thus dismissed without prejudice. The Clerk of the Court is respectfully requested to enter judgment in favor of defendants in accordance with this decision and to close this case.

Defendants shall serve a copy of this Memorandum and Order on the *pro se* plaintiff by March 27, 2012 and file a certificate of service via ECF by March 28, 2012.

**SO ORDERED.**

Dated: March 26, 2012  
Brooklyn, New York

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Kiyo A. Matsumoto  
United States District Judge